

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

INTERNATIONAL UNION OF OPERATING ENGINEERS,  
LOCAL 132 HEALTH AND WELFARE FUND;  
INTERNATIONAL UNION OF OPERATING ENGINEERS,  
LOCAL 132 PENSION FUND;  
INTERNATIONAL UNION OF OPERATING ENGINEERS,  
LOCAL 132 APPRENTICESHIP AND SKILL IMPROVEMENT FUND;  
INTERNATIONAL UNION OF OPERATING ENGINEERS,  
LOCAL 132 ANNUITY AND SAVINGS FUND; and  
INTERNATIONAL UNION OF OPERATING ENGINEERS,  
LOCAL NO. 132, AFL-CIO,

Plaintiffs,

v.

CIVIL ACTION NO. 3:19-0788

COFANO ENERGY SERVICES, LLC,  
a Pennsylvania Corporation and  
ANTERO RESOURCES CORPORATION,  
a Delaware Corporation,

Defendants.

**ORDER**

On December 2, 2019, Defendant Antero Resources Corporation filed a Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief may be granted. ECF No. 7. In its motion, Defendant Antero states it cannot be held liable under the West Virginia Wage Payment and Collection Act (the “WCPA”) because it is not a “prime contractor” under the Act. Instead, Defendant Antero claims it is the owner of the pipeline at issue and, thus, the WCPA is inapplicable to it.<sup>1</sup>

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<sup>1</sup>In relevant part, the WCPA provides:


**§ 21-5-7. Prime contractor's responsibility for wages and benefits**

Having received no response from Plaintiffs, the Court contacted counsel for Plaintiffs on January 31, 2020, and asked if Plaintiffs intended to respond. Counsel replied that Plaintiffs did intend to respond and requested permission to do so on or before February 5. The Court informed counsel that Plaintiffs would be required to file a motion to file a late response with the proposed response attached. As of today, no response or motion to file a late response has been filed.

Accordingly, as Defendant Antero's motion is ripe for decision and Plaintiffs have not disputed that the WCPA does not apply to it, the Court **GRANTS** the motion and **DISMISSES** Defendant Antero from this action.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: February 11, 2020

  
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ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE

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(a) Whenever any person, firm, or corporation shall contract with another for the performance of any work which the prime contracting person has undertaken to perform for another, the prime contractor shall become civilly liable to employees engaged in the performance of work under the contract for the payment of wages and fringe benefits . . . .

W. Va. Code § 21-5-7(a), in part.